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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

JUAN GONZALEZ &
ADRIENNE GONZALEZ
Debtor(s).

Chapter 13 Proceedings
Case No.: 09-14668-BAM

Date: 6/11/2009
Time: 3:30 PM

**MOTION TO VALUE COLLATERAL, "STRIP OFF" AND MODIFY RIGHTS
OF FIFTH THIRD BANK PURSUANT TO 11 U.S.C. §506(a) AND §1322**

Comes Now the Debtor, JUAN AND ADRIENNE GONZALEZ (hereinafter the "debtor"),
by and through THE LAW OFFICES OF RANDOLPH H. GOLDBERG, and respectfully moves
this Court pursuant to 11 U.S.C. §506(a), and §1322, and Bankruptcy Rules 3012 and 9014.

STATEMENT OF FACTS

1. Debtor filed the instant Chapter 13, Case Number **09-14668** on **MARCH 31, 2009**.

2. As of the date of filing, debtor owned real property located at **3354 MOUNTAIN BLUEBIRD STREET LAS VEGAS Nevada 89117** (hereinafter the "Subject Property").

3. Debtors have obtained a residential appraisal that places the value of the subject property at **\$175,000.00**.

4. At the time of filing the instant petition, the Subject Property was subject to

1 the following liens:

2 **AMERICAS SERVICING COMPANY (First Mortgage): \$219,597.00**

3 **FIFTH THIRD BANK (Second Mortgage): \$41,056.00**

4
5 5. Therefore, on the date the instant bankruptcy was filed, no equity existed in
6 the Subject Property above the claims of **FIFTH THIRD BANK**

7 6. **FIFTH THIRD BANK's** claim was wholly unsecured on the petition date and if
8 the Subject Property was sold at auction **FIFTH THIRD BANK** would receive
9 nothing.
10

11 7. Accordingly, the debtor requests that Your Honor find that **FIFTH THIRD BANK** claim
12 is unsecured and should be reclassified as a general unsecured claim to receive pro rata with other
13 general unsecured creditors through the debtor's chapter 13 plan.
14

15 **LEGAL ARGUMENT**

16 In *In re Zimmer*, 313 F.3d 1220 (9th Cir. 2002), the Court stated that a wholly unsecured
17 lien holder's claim can be modified and reclassified as a general unsecured claim pursuant to 11
18 U.S.C. §506(a), despite the anti-modification language in §1322(b)(2). Specifically, the Court
19 held:
20

21 Section 506(a) divides creditors' claims into "secured...claims" and "unsecured
22 claims." Although the conventional interpretation of "secured" might include any
23 claim in which the creditor has a security interest in the debtor's property, §506(a)
24 makes clear that the status of a claim depends on the valuation of the property. An
25 allowed claim of a creditor secured by a lien on property in which the estate has
26 an interest ... is a secured claim to the extent of the value of such creditor's interest
27 in the estate's interest in such property ... and is an unsecured claim to the extent
28 that the value of such creditor's interest ... is less than the amount of such allowed
claim. To put it more simply, a claim such as a mortgage is not a "secured claim"
to the extent that it exceeds the value of the property that secures it. Under the
Bankruptcy Code, "secured claim" is thus a term of art; not every claim that is

1 secured by a lien on property will be considered a "secured claim." Here, it is plain
2 that **FIFTH THIRD BANK's** claim for the repayment of its loan is an unsecured
3 claim, because its deed of trust is junior to the first deed of trust, and the value of
4 the loan secured by the first deed of trust is greater than the value of the house.

5 Accordingly, since **FIFTH THIRD BANK's second** mortgage claim is wholly unsecured
6 (in that there is no extant equity above the first mortgage in the Subject Property), the claim
7 should be reclassified by this Court as a general unsecured claim and share in whatever pro rata
8 distribution is being received. **FIFTH THIRD BANK** should also be stripped of its secured
9 rights under Nevada State Law since no maintainable security interest in the subject property
10 exists.
11

12 Furthermore, the Debtor is not required to file an adversary proceeding to strip the lien of
13 its secured status. Debtor may "strip off" **FIFTH THIRD BANK's** consensual lien by motion.

14 See *In re Williams*, 166 B.R. 615 (Bankr.E.D.Va.1994), *In re Fuller*, 255 B.R.

15 300(Bankr.W.D.Mich.2000), *In re Hoskins*, 262 B.R. 693 (Bankr.E.D.Mich.2001), *In re King*,

16 290 B.R. 641 (Bankr.C.D.Ill. 2003), *In re Millspaugh*, 302 B.R. 90 (Bankr.D.Idaho 2003), *Dickey*

17 *v. Ben. Fin. (In re Dickey)* 293 B.R. 360 (Bankr.M.D.Pa.2003), *In re Hill*, 304 B.R. 800

18 (Bankr.S.D.Ohio 2003); *In re*

19 *Sadala* 294 B.R. 180 (Bankr.M.D.Fla.2003), *In re Fisher*, 289 B.R. 544 (Bankr.W.D.N.Y.2003),

20 *In re Robert*, 313 B.R. 545 (Bankr.N.D.N.Y.2004), *In re Bennett*, 312 B.R. 843

21 (Bankr.W.D.Ky.2004).
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CONCLUSION

Debtors respectfully request that the court:

1. Determine that the first mortgage on the subject property exceeds the value;
2. Determine that the **FIFTH THIRD BANK second** mortgage claim is a wholly unsecured claim and strip the lien from the subject property pursuant to 11 U.S.C. Section 506(a);
3. Reclassify the secured claim filed by **FIFTH THIRD BANK** as a general unsecured claim to be paid pro rata in the general unsecured pool of Debtor's Chapter 13 Plan.
4. For such other and further relief which the Court deems just and proper.

DATED this 7 of May, 2009.

THE LAW OFFICES OF
RANDOLPH H. GOLDBERG

By: /s/RANDOLPH GOLDBERG/s/
RANDOLPH H. GOLDBERG, ESQ.
4000 S. Eastern Avenue, Suite 200
Las Vegas, Nevada 89119
Attorney for Debtor(s)

RESIDENTIAL APPRAISAL SUMMARY REPORT

File No.: 090301

Property Address: 3354 MOUNTAIN BLUEBIRD STREET		City: LAS VEGAS		State: NV Zip Code: 89117	
County: CLARK		Legal Description: LOT 234, BLOCK E OF PINERIDGE CROSSING #43-LEWIS HOMES			
Assessor's Parcel #: 163-18-112-020		Tax Year: 09-10 R.E. Taxes: \$ 1,777.64 Special Assessments: \$ NONE Borrower (if applicable): N/A			
Current Owner of Record: GONZALEZ		Occupant: <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant <input type="checkbox"/> Vacant <input type="checkbox"/> Manufactured Housing			
Project Type: <input type="checkbox"/> PUD <input type="checkbox"/> Condominium <input type="checkbox"/> Cooperative <input type="checkbox"/> Other (describe)		HOA: \$ N/A per year per month			
Market Area Name: PINERIDGE CROSSING		Map Reference: 52-A5		Census Tract: 4120.0058.12	
The purpose of this appraisal is to develop an opinion of: <input checked="" type="checkbox"/> Market Value (as defined), or <input type="checkbox"/> other type of value (describe)					
This report reflects the following value (if not current, see comments): <input checked="" type="checkbox"/> Current (the Inspection Date is the Effective Date) <input type="checkbox"/> Retrospective <input type="checkbox"/> Prospective					
Approaches developed for this appraisal: <input checked="" type="checkbox"/> Sales Comparison Approach <input type="checkbox"/> Cost Approach <input type="checkbox"/> Income Approach (See Reconciliation Comments and Scope of Work)					
Property Rights Appraised: <input checked="" type="checkbox"/> Fee Simple <input type="checkbox"/> Leasehold <input type="checkbox"/> Leased Fee <input type="checkbox"/> Other (describe)					
Intended Use: THE INTENDED USE OF THIS APPRAISAL REPORT IS FOR THE BANKRUPTCY COURT TO EVALUATE THE PROPERTY THAT IS THE SUBJECT OF THIS APPRAISAL FOR A BANKRUPTCY FILING.					
Intended User(s) (by name or type): THE INTENDED USER IS THE PROPERTY OWNER AND THE BANKRUPTCY ATTORNEY/COURT.					
Client: GONZALEZ		Address: 3354 MOUNTAIN BLUEBIRD STREET, LAS VEGAS, NV 89117			
Appraiser: TRISTA CATER		Address: LAS VEGAS			
Location: <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban <input type="checkbox"/> Rural		Predominant Occupancy: <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant <input type="checkbox"/> Vacant (0-5%) <input type="checkbox"/> Vacant (>5%)		One-Unit Housing: PRICE (\$000) AGE (yrs) 124 Low NEW 629 High 20 150-200 Prod 10-15	
Built up: <input checked="" type="checkbox"/> Over 75% <input type="checkbox"/> 25-75% <input type="checkbox"/> Under 25%		Growth rate: <input type="checkbox"/> Rapid <input checked="" type="checkbox"/> Stable <input type="checkbox"/> Slow		Present Land Use: One-Unit 65% 2-4 Unit 0% Multi-Unit 10% Comm'l 20% Vacant 5%	
Property values: <input type="checkbox"/> Increasing <input checked="" type="checkbox"/> Stable <input type="checkbox"/> Declining		Demand/supply: <input type="checkbox"/> Shortage <input checked="" type="checkbox"/> In Balance <input type="checkbox"/> Over Supply		Change in Land Use: <input checked="" type="checkbox"/> Not Likely <input type="checkbox"/> Likely * <input type="checkbox"/> In Process *	
Marketing time: <input type="checkbox"/> Under 3 Mos. <input checked="" type="checkbox"/> 3-6 Mos. <input type="checkbox"/> Over 6 Mos.					
Market Area Boundaries, Description, and Market Conditions (including support for the above characteristics and trends): Sales have decreased in the last year while inventory continues to rise. Foreclosures and short sales are becoming more common in the current market. Sellers must be realistic when pricing properties and be willing to market aggressively. Listing and pending sales are emphasized and only the most current closed sales are considered reliable in this changing market.					
Dimensions: 52 +/- x 100 +/- Site Area: 5,200 Sq. Ft.					
Zoning Classification: R-2		Description: SINGLE FAMILY			
Zoning Compliance: <input checked="" type="checkbox"/> Legal <input type="checkbox"/> Legal nonconforming (grandfathered) <input type="checkbox"/> Illegal <input type="checkbox"/> No zoning		Are CC&Rs applicable? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown Have the documents been reviewed? <input type="checkbox"/> Yes <input type="checkbox"/> No Ground Rent (if applicable) \$ /			
Highest & Best Use as improved: <input checked="" type="checkbox"/> Present use, or <input type="checkbox"/> Other use (explain)					
Actual Use as of Effective Date: Use as appraised in this report:					
Summary of Highest & Best Use:					
Utilities Public Other Provider/Description		Off-site Improvements Type		Public Private Topography	
Electricity <input checked="" type="checkbox"/> <input type="checkbox"/>		Street ASPHALT		<input checked="" type="checkbox"/> <input type="checkbox"/>	
Gas <input checked="" type="checkbox"/> <input type="checkbox"/>		Curb/Gutter CONCRETE		<input checked="" type="checkbox"/> <input type="checkbox"/>	
Water <input checked="" type="checkbox"/> <input type="checkbox"/>		Sidewalk CONCRETE		<input checked="" type="checkbox"/> <input type="checkbox"/>	
Sanitary Sewer <input checked="" type="checkbox"/> <input type="checkbox"/>		Street Lights ADEQUATE		<input checked="" type="checkbox"/> <input type="checkbox"/>	
Storm Sewer <input checked="" type="checkbox"/> <input type="checkbox"/>		Alley NONE/TYPICAL		<input type="checkbox"/> <input type="checkbox"/>	
Other site elements: <input type="checkbox"/> Inside Lot <input checked="" type="checkbox"/> Corner Lot <input type="checkbox"/> Cul de Sac <input type="checkbox"/> Underground Utilities <input type="checkbox"/> Other (describe)					
FEMA Spec'l Flood Hazard Area <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No FEMA Flood Zone X FEMA Map # 32003C 2145E FEMA Map Date 9/02					
Site Comments: This site is typical of the neighborhood in terms of size and appeal, with no readily apparent easements or encroachments. In short, a conforming site that provides a suitable setting.					
General Description		Exterior Description		Foundation	
# of Units 1 <input type="checkbox"/> Acc. Unit		Foundation CONCRETE		Slab CONCRETE	
# of Stories 1		Exterior Walls STUCCO		Crawl Space NONE	
Type <input checked="" type="checkbox"/> Det. <input type="checkbox"/> Att. <input type="checkbox"/>		Roof Surface TILE		Basement NONE	
Design (Style) 1-STORY		Gutters & Dwnspts. NONE		Sump Pump <input type="checkbox"/>	
<input checked="" type="checkbox"/> Existing <input type="checkbox"/> Proposed <input type="checkbox"/> Und. Cons.		Window Type DUAL PANE		Dampness <input type="checkbox"/>	
Actual Age (Yrs.) 11		Storm Screens YES		Settlement <input type="checkbox"/>	
Effective Age (Yrs.) 11				Infestation <input type="checkbox"/>	
Interior Description		Appliances		Attic <input type="checkbox"/> None	
Floors CER/CPT/LAM/AVG		Refrigerator <input type="checkbox"/>		Amenities	
Walls DRYWALL/AVG		Range/Oven <input checked="" type="checkbox"/>		Fireplace(s) # 1 Woodstove(s) #	
Trim/Finish PAINT/AVERAGE		Disposal <input checked="" type="checkbox"/>		Garage # of cars (2 Tot.)	
Bath Floor CERAMIC/AVG		Scuttle <input checked="" type="checkbox"/>		Attach. 2	
Bath Wainscot FIBG/CUL/TMRB/AVG		Doorway <input type="checkbox"/>		Detach. <input type="checkbox"/>	
Doors RAISED PANEL/AVG		Floor <input type="checkbox"/>		Blt.-in <input type="checkbox"/>	
		Microwave <input type="checkbox"/>		Carport <input type="checkbox"/>	
		Washer/Dryer <input type="checkbox"/>		Driveway 2	
		Finished <input type="checkbox"/>		Surface CONCRETE	
Finished area above grade contains: 6 Rooms 3 Bedrooms 2 Bath(s) 1,389 Square Feet of Gross Living Area Above Grade					
Additional features: SEE ATTACHED ADDENDA...					
Describe the condition of the property (including physical, functional and external obsolescence): THE PROPERTY IS IN OVERALL AVERAGE CONDITION. NO REPAIRS, RENOVATIONS OR REMODELING NEEDED.					

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RESIDENTIAL APPRAISAL SUMMARY REPORT

File No.: 090301

My research ☐ did ☒ did not reveal any prior sales or transfers of the subject property for the three years prior to the effective date of this appraisal.Data Source(s): **MLS/COUNTY RECORDS**

TRANSFER HISTORY	1st Prior Subject Sale/Transfer	Analysis of sale/transfer history and/or any current agreement of sale/fining: THERE WERE NO TRANSFERS OF
	Date: NONE	COMPARABLE PROPERTYS WITHIN 12 MONTHS. THERE WERE NO TRANSFERS OF THE
	Price:	SUBJECT PROPERTY WITHIN 36 MONTHS.
	Source(s): COUNTY RECORDS	
	2nd Prior Subject Sale/Transfer	
Date:		
Price:		
Source(s):		

SALES COMPARISON APPROACH TO VALUE (If developed) ☐ The Sales Comparison Approach was not developed for this appraisal.

FEATURE	SUBJECT	COMPARABLE SALE # 1	COMPARABLE SALE # 2	COMPARABLE SALE # 3
Address	3354 MOUNTAIN BLUEBIRD ST LAS VEGAS, NV 89117	9585 SUN DROP COURT. APN: 163-18-615-026	9566 SUN DROP COURT APN: 163-18-615-018	3759 MORNING CANYON ST. APN: 163-18-719-028
Proximity to Subject		0.60 miles SE	0.63 miles SE	0.70 miles SE
Sale Price	\$ N/A	\$ 170,000	\$ 175,000	\$ 172,000
Sale Price/GLA	\$ /sq.ft.	\$ 133.65 /sq.ft.	\$ 137.58 /sq.ft.	\$ 117.73 /sq.ft.
Data Source(s)	INSPECTION	DOC# 20090130-05822/TXSTR	DOC# 20080926-03308/TXSTR	DOC# 20081231-04300/TXSTR
Verification Source(s)	COUNTY RECS	MLS# 878358 DOM 97	MLS# 849978 DOM 221	MLS# 873985 DOM 68
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION + (-) \$ Adjust.	DESCRIPTION + (-) \$ Adjust.	DESCRIPTION + (-) \$ Adjust.
Sales or Financing	N/A	FHA	CONV	CONV
Concessions		\$5,100	\$7,000	\$5,160
Date of Sale/Time	INSP. 3/09	COE 1/30/09	COE 9/26/08	COE 12/31/08
Rights Appraised	FEE SIMPLE	FEE SIMPLE	FEE SIMPLE	FEE SIMPLE
Location	AVERAGE	AVERAGE	AVERAGE	AVERAGE
Site	4,988 SQ.FT.	3,993 SQ.FT.	4,153 SQ.FT.	5,050 SQ.FT.
View	RESIDENTIAL	RESIDENTIAL	RESIDENTIAL	RESIDENTIAL
Design (Style)	1-STORY	1-STORY	1-STORY	1-STORY
Quality of Construction	AVERAGE	AVERAGE	AVERAGE	AVERAGE
Age	11	9	9	11
Condition	AVERAGE	AVERAGE	AVERAGE	AVERAGE
Above Grade				
Room Count	Total Bdrms Baths	Total Bdrms Baths	Total Bdrms Baths	Total Bdrms Baths
	6 3 2	5 3 2	5 3 2	6 3 2
Gross Living Area	1,389 sq.ft.	1,272 sq.ft.	1,272 sq.ft.	1,461 sq.ft.
Basement & Finished	N/A	N/A	N/A	N/A
Rooms Below Grade	N/A	N/A	N/A	N/A
Functional Utility	AVERAGE	AVERAGE	AVERAGE	AVERAGE
Heating/Cooling	FAU/CENTRAL	FAU/CENTRAL	FAU/CENTRAL	FAU/CENTRAL
Energy Efficient Items	STANDARD	STANDARD	STANDARD	STANDARD
Garage/Carport	2-GARAGE	2-GARAGE	2-GARAGE	2-GARAGE
Porch/Patio/Deck	PORCH,L/S	PORCH,L/S	PORCH,L/S	PORCH,L/S
Number of Fireplaces	1 FIREPLACE	NO FIREPLACE	NO FIREPLACE	1 FIREPLACE
Net Adjustment (Total)		<input checked="" type="checkbox"/> + <input type="checkbox"/> - \$ 4,500	<input checked="" type="checkbox"/> + <input type="checkbox"/> - \$ 4,500	<input type="checkbox"/> + <input checked="" type="checkbox"/> - \$ -1,500
Adjusted Sale Price of Comparables		Net 2.6 % Gross 2.6 % \$ 174,500	Net 2.6 % Gross 2.6 % \$ 179,500	Net 0.9 % Gross 0.9 % \$ 170,500

Summary of Sales Comparison Approach **ALL SALES ARE 1-STORY HOMES LOCATED IN THE SUBJECT SUBMARKET. SALES 1 AND 2 ARE INFERIOR TO SUBJECT DUE TO GROSS LIVING AREA AND LACK OF A FIREPLACE. SALE 3 IS SUPERIOR DUE TO GROSS LIVING AREA. WHILE NONE OF THESE SALES STAND WELL ALONE AS AN INDICATOR OF SUBJECT VALUE, COLLECTIVELY THEY SUPPORT EACH OTHER AND THE VALUE CONCLUSION. GROSS/NET ADJUSTMENTS ARE SMALL AND ATTEST TO THE COMPARABILITY OF THE SALES. SEE ATTACHED ADDENDA...**

Indicated Value by Sales Comparison Approach \$ 175,000

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RESIDENTIAL APPRAISAL SUMMARY REPORT		Page #4		
COST APPROACH TO VALUE (if developed) <input checked="" type="checkbox"/> The Cost Approach was not developed for this appraisal. File No.: 090301 Provide adequate information for replication of the following cost figures and calculations. Support for the opinion of site value (summary of comparable land sales or other methods for estimating site value):				
COST APPROACH	ESTIMATED <input type="checkbox"/> REPRODUCTION OR <input type="checkbox"/> REPLACEMENT COST NEW Source of cost data: _____ Quality rating from cost service: _____ Effective date of cost data: _____ Comments on Cost Approach (gross living area calculations, depreciation, etc.): _____	OPINION OF SITE VALUE DWELLING Sq. Ft. @ \$ _____ = \$ _____ Sq. Ft. @ \$ _____ = \$ _____ Sq. Ft. @ \$ _____ = \$ _____ Sq. Ft. @ \$ _____ = \$ _____ Sq. Ft. @ \$ _____ = \$ _____ Garage/Carport Sq. Ft. @ \$ _____ = \$ _____ Total Estimate of Cost-New _____ = \$ _____ Less Physical Functional External _____ Depreciation _____ = \$ (_____) Depreciated Cost of Improvements _____ = \$ _____ "As-Is" Value of Site Improvements _____ = \$ _____ Estimated Remaining Economic Life (if required): _____ Years _____ = \$ _____		
INCOME APPROACH	INCOME APPROACH TO VALUE (if developed) <input checked="" type="checkbox"/> The Income Approach was not developed for this appraisal. Estimated Monthly Market Rent \$ _____ N/A X Gross Rent Multiplier _____ = \$ _____ Summary of Income Approach (including support for market rent and GRM): N/A Indicated Value by Income Approach _____			
PLUD	PROJECT INFORMATION FOR PLUDs (if applicable) <input type="checkbox"/> The Subject is part of a Planned Unit Development. Legal Name of Project: _____ Describe common elements and recreational facilities: _____			
RECONCILIATION	Indicated Value by Sales Comparison Approach \$ 175,000 Cost Approach (if developed) \$ N/A Income Approach (if developed) \$ N/A Final Reconciliation THE SALES COMPARISON APPROACH BEST INDICATES MARKET VALUE AS DESCRIBED IN THE REPORT. This appraisal is made <input checked="" type="checkbox"/> "as is", <input type="checkbox"/> subject to completion per plans and specifications on the basis of a Hypothetical Condition that the improvements have been completed, <input type="checkbox"/> subject to the following repairs or alterations on the basis of a Hypothetical Condition that the repairs or alterations have been completed, <input type="checkbox"/> subject to the following required inspection based on the Extraordinary Assumption that the condition or deficiency does not require alteration or repair: Subject is marketable "as is" and no repairs or alterations are required. See attached addenda. <input type="checkbox"/> This report is also subject to other Hypothetical Conditions and/or Extraordinary Assumptions as specified in the attached addenda.			
ATTACHMENTS	Based on the degree of inspection of the subject property, as indicated below, defined Scope of Work, Statement of Assumptions and Limiting Conditions, and Appraiser's Certifications, my (our) Opinion of the Market Value (or other specified value type), as defined herein, of the real property that is the subject of this report is: \$ 175,000 as of: MARCH 4, 2009, which is the effective date of this appraisal. If indicated above, this Opinion of Value is subject to Hypothetical Conditions and/or Extraordinary Assumptions included in this report. See attached addenda. A true and complete copy of this report contains _____ pages, including exhibits which are considered an integral part of the report. This appraisal report may not be properly understood without reference to the information contained in the complete report. Attached Exhibits: <input checked="" type="checkbox"/> Scope of Work <input checked="" type="checkbox"/> Limiting Cond./Certifications <input checked="" type="checkbox"/> Narrative Addendum <input checked="" type="checkbox"/> Photograph Addenda <input type="checkbox"/> Sketch Addendum <input checked="" type="checkbox"/> Map Addenda <input type="checkbox"/> Additional Sales <input type="checkbox"/> Cost Addendum <input type="checkbox"/> Flood Addendum <input type="checkbox"/> Manuf. House Addendum <input type="checkbox"/> Hypothetical Conditions <input type="checkbox"/> Extraordinary Assumptions <input type="checkbox"/> _____			
SIGNATURES	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> Client Contact: _____ E-Mail: _____ APPRAISER Appraiser Name: <u>TRISTA CATER</u> Company: <u>C & R APPRAISAL COMPANY</u> Phone: <u>702-278-6099</u> Fax: _____ E-Mail: <u>TRISTAS@COX.NET</u> Date of Report (Signature): <u>MARCH 10, 2009</u> License or Certification #: <u>A.0001127-RES</u> State: <u>NV</u> Designation: <u>LICENSED RESIDENTIAL APPRAISER</u> Expiration Date of License or Certification: <u>6/30/2009</u> Inspection of Subject: <input checked="" type="checkbox"/> Interior & Exterior <input type="checkbox"/> Exterior Only <input type="checkbox"/> None Date of Inspection: <u>MARCH 4, 2009</u> </td> <td style="width: 50%; vertical-align: top;"> Client Name: <u>GONZALEZ</u> Address: <u>3354 MOUNTAIN BLUEBIRD STREET, LAS VEGAS, NV 89117</u> SUPERVISORY APPRAISER (if required) or CO-APPRAISER (if applicable) Supervisory or Co-Appraiser Name: _____ Company: _____ Phone: _____ Fax: _____ E-Mail: _____ Date of Report (Signature): _____ License or Certification #: _____ State: _____ Designation: _____ Expiration Date of License or Certification: _____ Inspection of Subject: <input type="checkbox"/> Interior & Exterior <input type="checkbox"/> Exterior Only <input type="checkbox"/> None Date of Inspection: _____ </td> </tr> </table>		Client Contact: _____ E-Mail: _____ APPRAISER Appraiser Name: <u>TRISTA CATER</u> Company: <u>C & R APPRAISAL COMPANY</u> Phone: <u>702-278-6099</u> Fax: _____ E-Mail: <u>TRISTAS@COX.NET</u> Date of Report (Signature): <u>MARCH 10, 2009</u> License or Certification #: <u>A.0001127-RES</u> State: <u>NV</u> Designation: <u>LICENSED RESIDENTIAL APPRAISER</u> Expiration Date of License or Certification: <u>6/30/2009</u> Inspection of Subject: <input checked="" type="checkbox"/> Interior & Exterior <input type="checkbox"/> Exterior Only <input type="checkbox"/> None Date of Inspection: <u>MARCH 4, 2009</u>	Client Name: <u>GONZALEZ</u> Address: <u>3354 MOUNTAIN BLUEBIRD STREET, LAS VEGAS, NV 89117</u> SUPERVISORY APPRAISER (if required) or CO-APPRAISER (if applicable) Supervisory or Co-Appraiser Name: _____ Company: _____ Phone: _____ Fax: _____ E-Mail: _____ Date of Report (Signature): _____ License or Certification #: _____ State: _____ Designation: _____ Expiration Date of License or Certification: _____ Inspection of Subject: <input type="checkbox"/> Interior & Exterior <input type="checkbox"/> Exterior Only <input type="checkbox"/> None Date of Inspection: _____
Client Contact: _____ E-Mail: _____ APPRAISER Appraiser Name: <u>TRISTA CATER</u> Company: <u>C & R APPRAISAL COMPANY</u> Phone: <u>702-278-6099</u> Fax: _____ E-Mail: <u>TRISTAS@COX.NET</u> Date of Report (Signature): <u>MARCH 10, 2009</u> License or Certification #: <u>A.0001127-RES</u> State: <u>NV</u> Designation: <u>LICENSED RESIDENTIAL APPRAISER</u> Expiration Date of License or Certification: <u>6/30/2009</u> Inspection of Subject: <input checked="" type="checkbox"/> Interior & Exterior <input type="checkbox"/> Exterior Only <input type="checkbox"/> None Date of Inspection: <u>MARCH 4, 2009</u>	Client Name: <u>GONZALEZ</u> Address: <u>3354 MOUNTAIN BLUEBIRD STREET, LAS VEGAS, NV 89117</u> SUPERVISORY APPRAISER (if required) or CO-APPRAISER (if applicable) Supervisory or Co-Appraiser Name: _____ Company: _____ Phone: _____ Fax: _____ E-Mail: _____ Date of Report (Signature): _____ License or Certification #: _____ State: _____ Designation: _____ Expiration Date of License or Certification: _____ Inspection of Subject: <input type="checkbox"/> Interior & Exterior <input type="checkbox"/> Exterior Only <input type="checkbox"/> None Date of Inspection: _____			

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Assumptions, Limiting Conditions & Scope of Work

Page #5

Property Address: 3354 MOUNTAIN BLUEBIRD STREET File No.: 090301
 Client: GONZALEZ City: LAS VEGAS State: NV Zip Code: 89117
 Appraiser: TRISTA CATER Address: 3354 MOUNTAIN BLUEBIRD STREET, LAS VEGAS, NV 89117

STATEMENT OF ASSUMPTIONS & LIMITING CONDITIONS

- The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it. The appraiser assumes that the title is good and marketable and, therefore, will not render any opinions about the title. The property is appraised on the basis of it being under responsible ownership.
- The appraiser may have provided a sketch in the appraisal report to show approximate dimensions of the improvements, and any such sketch is included only to assist the reader of the report in visualizing the property and understanding the appraiser's determination of its size. Unless otherwise indicated, a Land Survey was not performed.
- If so indicated, the appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in the appraisal report whether the subject site is located in an identified Special Flood Hazard Area. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.
- The appraiser will not give testimony or appear in court because he or she made an appraisal of the property in question, unless specific arrangements to do so have been made beforehand.
- If the cost approach is included in this appraisal, the appraiser has estimated the value of the land in the cost approach at its highest and best use, and the improvements at their contributory value. These separate valuations of the land and improvements must not be used in conjunction with any other appraisal and are invalid if they are so used. Unless otherwise specifically indicated, the cost approach value is not an insurance value, and should not be used as such.
- The appraiser has noted in the appraisal report any adverse conditions (including, but not limited to, needed repairs, depreciation, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property, or that he or she became aware of during the normal research involved in performing the appraisal. Unless otherwise stated in the appraisal report, the appraiser has no knowledge of any hidden or unapparent conditions of the property, or adverse environmental conditions (including, but not limited to, the presence of hazardous wastes, toxic substances, etc.) that would make the property more or less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied, regarding the condition of the property. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, the appraisal report must not be considered as an environmental assessment of the property.
- The appraiser obtained the information, estimates, and opinions that were expressed in the appraisal report from sources that he or she considers to be reliable and believes them to be true and correct. The appraiser does not assume responsibility for the accuracy of such items that were furnished by other parties.
- The appraiser will not disclose the contents of the appraisal report except as provided for in the Uniform Standards of Professional Appraisal Practice, and any applicable federal, state or local laws.
- If this appraisal is indicated as subject to satisfactory completion, repairs, or alterations, the appraiser has based his or her appraisal report and valuation conclusion on the assumption that completion of the improvements will be performed in a workmanlike manner.
- An appraiser's client is the party (or parties) who engage an appraiser in a specific assignment. Any other party acquiring this report from the client does not become a party to the appraiser-client relationship. Any persons receiving this appraisal report because of disclosure requirements applicable to the appraiser's client do not become intended users of this report unless specifically identified by the client at the time of the assignment.
- The appraiser's written consent and approval must be obtained before this appraisal report can be conveyed by anyone to the public, through advertising, public relations, news, sales, or by means of any other media, or by its inclusion in a private or public database.
- An appraisal of real property is not a 'home inspection' and should not be construed as such. As part of the valuation process, the appraiser performs a non-invasive visual inventory that is not intended to reveal defects or detrimental conditions that are not readily apparent. The presence of such conditions or defects could adversely affect the appraiser's opinion of value. Clients with concerns about such potential negative factors are encouraged to engage the appropriate type of expert to investigate.

The Scope of Work is the type and extent of research and analyses performed in an appraisal assignment that is required to produce credible assignment results, given the nature of the appraisal problem, the specific requirements of the intended user(s) and the intended use of the appraisal report. Reliance upon this report, regardless of how acquired, by any party or for any use, other than those specified in this report by the Appraiser, is prohibited. The Opinion of Value that is the conclusion of this report is credible only within the context of the Scope of Work, Effective Date, the Date of Report, the Intended User(s), the Intended Use, the stated Assumptions and Limiting Conditions, any Hypothetical Conditions and/or Extraordinary Assumptions, and the Type of Value, as defined herein. The appraiser, appraisal firm, and related parties assume no obligation, liability, or accountability, and will not be responsible for any unauthorized use of this report or its conclusions.

Additional Comments (Scope of Work, Extraordinary Assumptions, Hypothetical Conditions, etc.):

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3/2007

Certifications

Page #6

Property Address: 3354 MOUNTAIN BLUEBIRD STREET
 Client: GONZALEZ City: LAS VEGAS File No.: 090301
 Appraiser: TRISTA CATER Address: 3354 MOUNTAIN BLUEBIRD STREET, LAS VEGAS, NV 89117 State: NV Zip Code: 89117

APPRAISER'S CERTIFICATION

I certify that, to the best of my knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The credibility of this report, for the stated use by the stated user(s), of the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice that were in effect at the time this report was prepared.
- I did not base, either partially or completely, my analysis and/or the opinion of value in the appraisal report on the race, color, religion, sex, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property, or of the present owners or occupants of the properties in the vicinity of the subject property.
- Unless otherwise indicated, I have made a personal inspection of the property that is the subject of this report.
- Unless otherwise indicated, no one provided significant real property appraisal assistance to the person(s) signing this certification.

Additional Certifications:

DEFINITION OF MARKET VALUE *:

Market value means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated;
2. Both parties are well informed or well advised and acting in what they consider their own best interests;
3. A reasonable time is allowed for exposure in the open market;
4. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

* This definition is from regulations published by federal regulatory agencies pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) of 1989 between July 5, 1990, and August 24, 1990, by the Federal Reserve System (FRS), National Credit Union Administration (NCUA), Federal Deposit Insurance Corporation (FDIC), the Office of Thrift Supervision (OTS), and the Office of Comptroller of the Currency (OCC). This definition is also referenced in regulations jointly published by the OCC, OTS, FRS, and FDIC on June 7, 1994, and in the Interagency Appraisal and Evaluation Guidelines, dated October 27, 1994.

Client Contact:		Client Name: GONZALEZ	
E-Mail:		Address: 3354 MOUNTAIN BLUEBIRD STREET, LAS VEGAS, NV 89117	
APPRAISER		SUPERVISORY APPRAISER (if required) or CO-APPRAISER (if applicable)	
Appraiser Name: <i>Trista Cater</i>		Supervisory or Co-Appraiser Name:	
Company: C & R APPRAISAL COMPANY		Company:	
Phone: 702-278-6099 Fax:		Phone: Fax:	
E-Mail: TRISTA5@COX.NET		E-Mail:	
Date Report Signed: MARCH 10, 2009		Date Report Signed:	
License or Certification #: A0001127-RES State: NV		License or Certification #: State:	
Designation: LICENSED RESIDENTIAL APPRAISER		Designation:	
Expiration Date of License or Certification: 6/30/2009		Expiration Date of License or Certification:	
Inspection of Subject: <input checked="" type="checkbox"/> Interior & Exterior <input type="checkbox"/> Exterior Only <input type="checkbox"/> None		Inspection of Subject: <input type="checkbox"/> Interior & Exterior <input type="checkbox"/> Exterior Only <input type="checkbox"/> None	
Date of Inspection: MARCH 4, 2009		Date of Inspection:	

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Supplemental Addendum

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Borrower/Client	N/A	File No. 090301	
Property Address	3354 MOUNTAIN BLUEBIRD STREET		
City	LAS VEGAS	County	CLARK
Client	GONZALEZ	State	NV
		Zip Code	89117

• URAR: Additional Features

Concrete driveway and sidewalks, blockwall fencing, covered porch, blockwalls, front and rear landscaping with automatic sprinklers, mow curbs, ceiling fans, crown molding, shutters, mirrored closet doors, walk-in closet in master.

• URAR: Neighborhood Market Factors

Las Vegas has a tourist-based economy. The service industry, which includes hotels, gaming, and recreation, accounts for over 30% of the employment within the city. Nellis Air Force Base, the Nevada Test Site, and several industrial and manufacturing plants are other main sources of employment. Also included are the secondary levels of support employment that are typical for a community with the size and population of the Las Vegas area. Growth in the Las Vegas valley remains constant adding to employment stability, and in turn, adding to the city's appeal.

Most of the competition for the subject will come from new tract development. Due to the tremendous growth in the Las Vegas Valley, new development will directly compete with both existing and other new development. The subject neighborhood is consistent with other competitive neighborhoods within the Las Vegas Valley and demonstrates a similar overall marketability to those areas.

• URAR: Sales Comparison Comments

This submarket was searched extensively and the comparable sales selected are considered the most similar to the subject in the current time frame. Any comparable which sold/closed escrow more than six months from the date of inspection was used due to a lack of any better/more recent sales in this submarket. Furthermore, any dated sale used is still a reliable indicator of current market value. All of the comparable sales are from within the subject subdivision or from the most proximate competing market areas. All line item adjustments are either market extracted and represent what informed purchasers are willing to pay for those items, or, when ideal "matched pair" sales are unavailable and no market extraction is possible, adjustments are derived from the cost new of the item, less all forms of depreciation. No value has been assigned to any personal property or any fixture not permanently attached.

In order to develop a reasonable analysis for the value of the property, a review of sales data from several sources was conducted. This investigation included the Multiple Listing Service as well as the county records and appraiser's files. Competing listings were also reviewed to determine the current competition and establish the upper limits of value in this submarket. The information provided herein is deemed to be accurate based on the sources cited.

• URAR: Final Reconciliation

Greatest weight has been placed on the Sales Comparison Analysis as the actions of buyers and sellers are reflected therein. There is insufficient rental data to produce consistent conclusions about market rent and gross rent multipliers and, therefore, the Income Approach was omitted. I am aware of the changes made by USPAP to the appraiser's certification and will abide by those changes. I have no bias in respect to the subject property.

Additional Comments:

All electronic signatures on this report have a security feature maintained by individual passwords for each signing appraiser. No person can alter the appraisal with the exception of the original signing appraiser(s).

Subject Photos

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Borrower/Client	N/A			
Property Address	3354 MOUNTAIN BLUEBIRD STREET			
City	LAS VEGAS			
Client	GONZALEZ	County	CLARK	State NV Zip Code 89117



Subject Front
3354 MOUNTAIN BLUEBIRD ST



Subject Rear



Subject Street

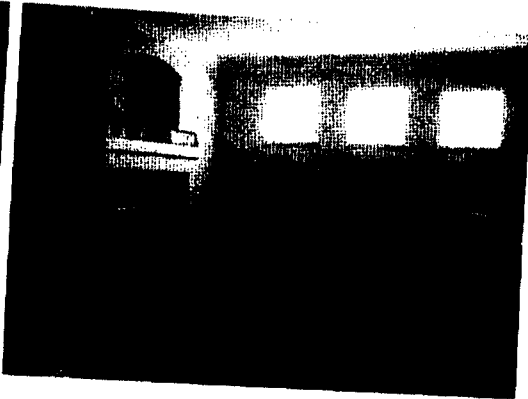
Photograph Addendum

Page #9

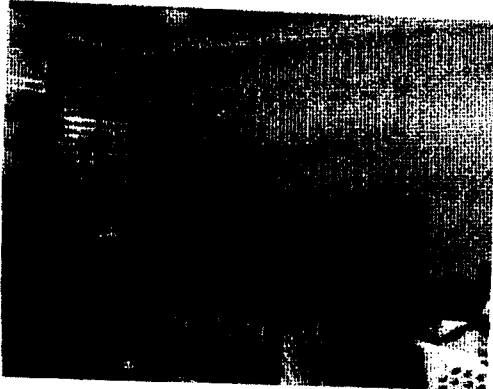
Borrower/Client	N/A		
Property Address	3354 MOUNTAIN BLUEBIRD STREET		
City	LAS VEGAS		
Client	GONZALEZ	County	CLARK
		State	NV
		Zip Code	89117



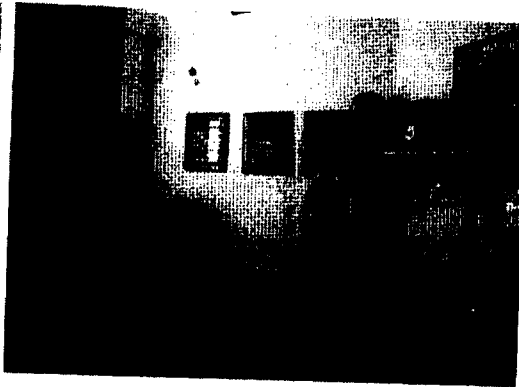
KITCHEN



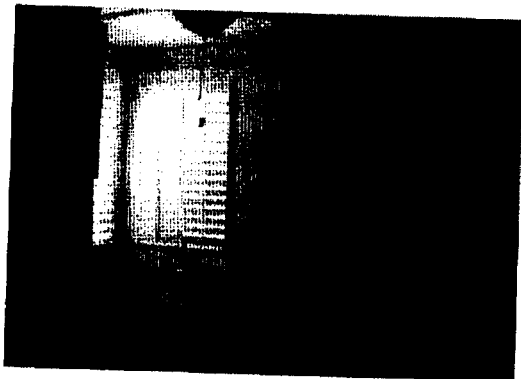
FAMILY ROOM



BEDROOM



BEDROOM



BEDROOM

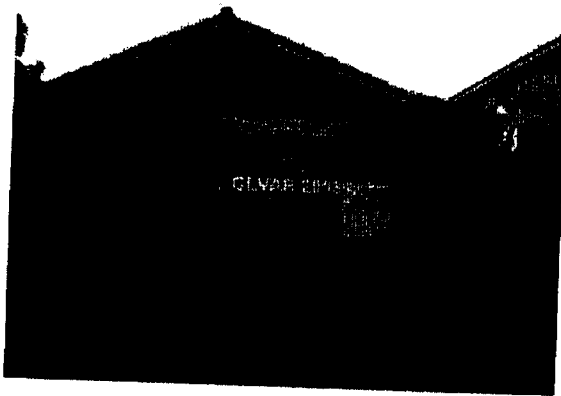
Comparable Photo Page

Page #10

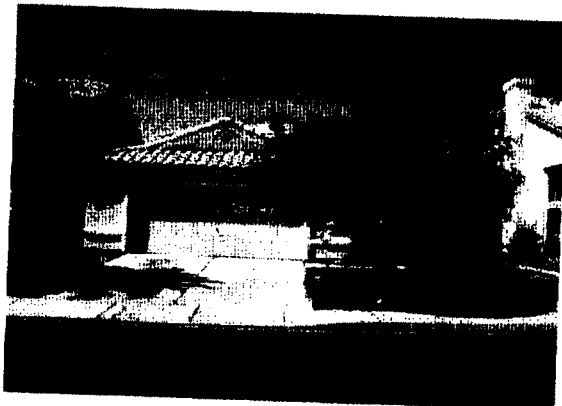
Borrower/Client	N/A				
Property Address	3354 MOUNTAIN BLUEBIRD STREET				
City	LAS VEGAS				
Client	GONZALEZ	County	CLARK	State	NV
				Zip Code	89117



Comparable 1
9585 SUN DROP COURT.



Comparable 2
9566 SUN DROP COURT

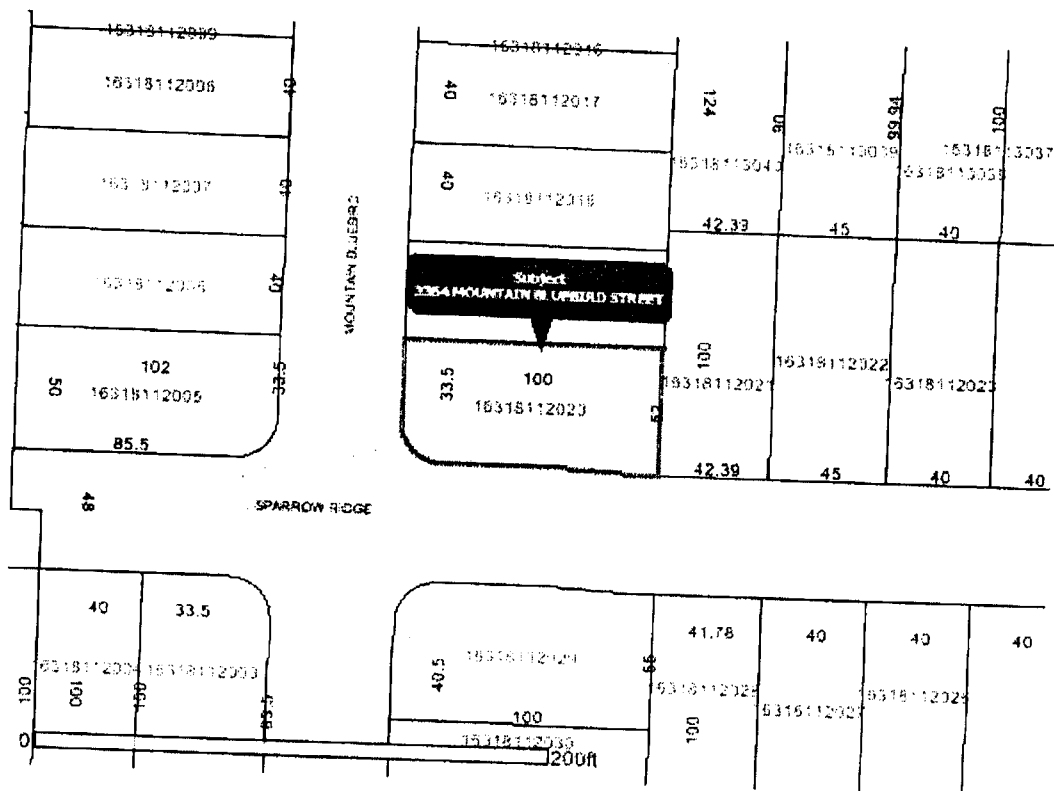


Comparable 3
3759 MORNING CANYON ST.

Plat Map

Page #11

Borrower/Client	N/A				
Property Address	3354 MOUNTAIN BLUEBIRD STREET				
City	LAS VEGAS	County	CLARK	State	NV
Client	GONZALEZ			Zip Code	89117



LICENSE**APPRAISER LICENSE**

STATE OF NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY
 NOT TRANSFERABLE REAL ESTATE DIVISION NOT TRANSFERABLE

Licensee Name: ERIN A. R. ALDER

License Number: A 0001127-RLS

Is duly authorized to act as a LICENSED RESIDENTIAL APPRAISER From the issue date to the expiration date at the business address stated here on, unless the license is sooner provided, cancelled, withdrawn, or invalidated.

Issue Date: July 12, 2007

Expiry Date: June 30, 2009

In witness whereof, THE DEPARTMENT OF BUSINESS AND INDUSTRY, REAL ESTATE DIVISION, in and to the authority vested in it by a higher body, of the Nevada Revised Statutes, has caused this license to be issued with its Seal printed thereon. This license must be conspicuously displayed in place of business.

FOR: ERIN A. R. ALDER, A.R. ALDER
 REAL ESTATE DIVISION
 DEPARTMENT OF BUSINESS AND INDUSTRY
 1500 SOUTH MAIN STREET
 LAS VEGAS, NV 89102

ERIN A. R. ALDER
 Appraiser

